

FIRST APPEAL NO. 1146 of 1983

Date of Decision : 19.6.1996

For Approval & Signature

THE HON'BLE MR. JUSTICE N.J.PANDYA

AND

THE HON'BLE MR. JUSTICE A.R.DAVE

1. Whether reporters of Local Papers may be allowed to see the judgment ?

2. To be referred to the Reporter or not ?

3. Whether their Lordships wish to see the fair copy of the judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any other order made thereunder ?

5. Whether it is to be circulated to the Civil Judge ?

Mr. Ajay R. Mehta , learned Advocate for the Petitioner Respondents served.

CORAM : N.J. PANDYA & A.R DAVE, JJ  
19.6.1996

ORAL JUDGMENT : [ Per : N.J. Pandya, J ]

We have been carried through the judgment and after discussion, it appears that the appeal has to be dismissed.

Looking to the elaborate discussion made by the trial court, while disposing of MAC Petition No. 155/81 in the judgment running into 126 pages, there were two indications which would offer very strong ground for appeal.

The first was the question of contributory negligence on the part of the claimant and the second was the amount awarded under the head of " future economic loss " on account of permanent partial disablement.

So far as the aspect of contributory negligence is concerned, we have gone through the panchanama exh.49 and deposition of the claimant himself. It is quite clear that there is no question of he being negligent at all. The scooter that the claimant was driving was coming from south to north and the truck having entering intersection known as Income-tax Circle, from eastern side, proceeded towards north and then to enter a bye-lane facing west. This is the place where the accident occurred. In our opinion, therefore, there is no question of contributory negligence on the part of the claimant.

On the aspect of compensation under the head of " future economic loss", the claim itself being for Rs. 1,50,000/ and on different components is awarded to the tune of Rs. 46,950/, then there is hardly any dispute for remaining sum of Rs.1,03,050/ for future economic loss on account of permanent partial disablement and, in our opinion, this court need not interfere. The disablement is caused as a result of verticle fracture of hip involving acetabulum and also displacement of femur head from the socket and fracture of right femur also. Nodoubt, the claimant is a Bank employee and, therefore, essentially a table worker, this disablement has certainly brought about a situation where it would be difficult for him to sit in the chair. On all fours, therefore, the compensation awarded namely Rs. 1,50,000/ as prayed for by the claimant by the learned MAC Tribunal by the judgment dated 30.8.1983 is not required to be interfered with.

In the result, the appeal is dismissed with no order as to costs as the other side has not cared to appear even after notice.

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